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Total Number of Pages in This Submission

Application Number 09/363,234

Filing Date July 27, 1999

First Named Inventor Douglas E. Ott

Art Unit 3763

Examiner Name M. Mendez

Attorney Docket Number 1-15369

ENCLOSURES (Check all that apply)



Fee Transmittal Form



Fee Attached



Amendment/Reply



After Final



Affidavits/declaration(s)



Extension of Time Request



Express Abandonment Request



Information Disclosure Statement



Certified Copy of Priority Document(s)

Reply to Missing Parts/
Incomplete ApplicationReply to Missing Parts
under 37 CFR 1.52 or 1.53

Drawing(s)



Licensing-related Papers



Petition

Petition to Convert to a
Provisional ApplicationPower of Attorney, Revocation
Change of Correspondence Address

Terminal Disclaimer



Request for Refund



CD, Number of CD(s) _____

☐ Landscape Table on CD

After Allowance Communication to TC

Appeal Communication to Board
of Appeals and InterferencesAppeal Communication to TC
(Appeal Notice, Brief, Reply Brief)

Proprietary Information



Status Letter

Other Enclosure(s) (please identify
below):

Return Postcard

Remarks

Response to Request for Clarification including claims; 3-month Extension of Time & Fee

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name

MARSHALL & MELHORN, LLC

Signature

Printed name

D. Edward Dolgorukov

Date

November 14, 2006

Reg. No.

26,266

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Roberta A. Winzeler

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11-14-06

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Roberta A. Winzeler
(Name)

Roberta A. Winzeler
(Signature)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)	
Douglas E. Ott, et al.)	Group Art Unit: 3763
)	
Serial No.: 09/363,234)	Examiner: M. Mendez
Filed: July 27, 1999)	
)	
For: METHOD AND APPARATUS)	
FOR TREATING GAS FOR)	Attorney Docket: 1-15369
DELIVERY TO AN ANIMAL)	

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RESPONSE TO REQUEST FOR CLARIFICATION

Honorable Sir:

The Examiner in the Official Action of July 18, 2006 held that the reply filed on April 11, 2006 was not fully responsive to the prior Office Actions because the term "laparoscopic insufflator" was not defined in clear, concise and exact terms leading in the Examiner's opinion to a person of ordinary skill in the art having a choice of several different insufflators which would have structural variations depending on the source of the definition.

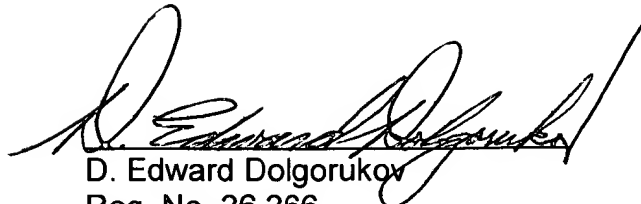
A period of 30 days was given to respond, with extensions available under 37 CFR 1.136(a). The fee for a three-month extension of time to reply, up to, and including, November 18, 2006 accompanies the present response.

Applicants submit that if the specification disclosed several types of hammers, they would likely have structural variations as well, but they would still be hammers. As illustrated by the evidence previously presented, a laparoscopic insufflator is simply a device that controls the flow of gas to the abdomen during laparoscopic surgery. The specification further provides that insufflators may have controls for pressure and volumetric flow rate (see at least page 8, lines 25-26). Such controls are typical of laparoscopic insufflators.

Applicants have attached a copy of claims allowed with respect to a European Counterpart to 5,411,474, where the European Patent Office has determined, after oral proceedings, that a claim including a limitation to an insufflator and a laparoscopic procedure is patentable. This term is easily understood by persons of ordinary skill in the art, as demonstrated by the decision of the EPO.

Applicants courteously submit that the requirements of 35 USC §112 have been fully met. It has been held that a claim is not indefinite "if meaning of claim is discernable, claim is sufficiently clear to avoid invalidity on indefiniteness grounds, even if interpreting claim is difficult, and construction is one over which reasonable persons could disagree. *Bancorp Services LLC v. Hartford Life Insurance Co.*, 69 USPQ 2d 1996 (CA FC 2004). Under the above test, the claims are not indefinite no matter which laparoscopic insufflator would be used by one skilled in the art.

Respectfully submitted,



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